

ATTACHMENT - REMARKS

Claims 1-3, 5, and 7-40 are pending in the present application. By this Amendment, Applicant has amended claims 1, 2, 5, 7, 8, 11-15, and 37-39, canceled claims 3 and 6 and added new claim 40. Applicant respectfully submits that the present application is in condition for allowance based on the discussion that follows.

As an initial point, Applicant gratefully appreciates the Examiner conducting a telephonic interview with his representative, Mr. Stephen Weyer, on January 7, 2009. In accordance with that interview, Applicant has amended the claims and provides the following remarks consistent with that interview.

In the outstanding Office Action, Parts 1-3, the specification were objected to under 37 C.F.R. §1.71 with regard to various claim terms allegedly not found in the specification as filed. By this Amendment, Applicant has amended the claims in accordance with the specification as filed and further has amended the specification to be consistent with the amended claim terminology, thereby obviating the objection to the specification under 37 CFR §1.71.

In Parts 4 and 5 of the outstanding Office Action, claims 1-39 were previously rejected under 35 U.S.C. §112, second paragraph, as being indefinite with regard to various phrases previously presented in the aforementioned claims. By this Amendment, Applicant has amended the claims as discussed during the Examiner interview, thereby obviating the rejection to the claims as discussed during the interview.

In Part 6, claims 1, 2, 5, 6, 8, 9, 23 and 24 were rejected under 35 U.S.C. §102(b) or alternatively under 35 U.S.C. §103(a) as being anticipated by or

obvious in view of, U.S. Patent No. 3,813,027 (hereinafter "Misdom"). As discussed during the Examiner interview and agreed by the Examiner, as now amended, the claims are not anticipated by or obvious in view of Misdom. Novel elements distinguishing the present invention over Misdom include partial ovoid portions extending from planar end faces of the cover part of the packaging unit. The end faces, are defined in relation to the front and rear surfaces of the cover part (claim 1) or the shorter side surfaces of the packaging unit (claim 40). Misdom does not have ovoid portions extending from any planar surfaces, let alone the planar end faces. For example, curved end walls 28 do not extend from any planar surface of the Misdom carton.

Based on the foregoing, Applicant respectfully submits that the claims 1, 2, 5, 8, 9, 23, and 24 and new claim 40 are not anticipated by or obvious in view of Misdom.

In part 7 of the Office Action, claims 1-3, 5, 6, 8, 9, 16-19, 24, 32 and 33 were previously rejected under 35 U.S.C. §102(b) or in the alternative under 35 U.S.C. §103(a) as being anticipated or obvious in view of U.S. Patent No. 3,259,294 (hereinafter "Hartmann"). As discussed during the Examiner interview, the presently presented claims are not anticipated by or obvious in view of Hartmann as Hartmann fails to teach or in any way make obvious the now recited ovoid portions extending from the end faces as claimed and discussed above with regard to the rejection in view of Misdom. Hartmann does not disclose or in any way make obvious partial ovoid portions extending from any planar surface let alone planar end faces as defined in claims 1 and 40. Accordingly, Applicant respectfully requests that the

rejection to the claims as being anticipated by or obvious in view of Hartmann be withdrawn.

In Part 8, claims 1-3, 5-9, 16-24 and 29-39 were rejected under 35 U.S.C. §103(a) as being unpatentable over Misdom or Hartmann further in view of U.S. Patent No. 3,362,605 (hereinafter "Bixler"). As discussed during the Examiner interview, the presently amended claims are not obvious in view of the aforementioned references in that the prior art fails to teach or in any way make obvious the claimed ovoid portions extending from planar end faces. As agreed during the Examiner interview, although Bixler may teach partial ellipsoid portions of walls (42), extending from either the rear surface of cover 14 attached by hinge 26 to the tray 12, or the front of the cover 14, the end faces 56 do not have any surface extending therefrom, let alone an ovoid portion extending from end surfaces 56. Accordingly, the claims are not obvious from Misdom and Hartmann further in view of Bixler.

In Part 9 of the Office Action, claims 10-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Misdom or Hartmann further in view of French Patent No. FR 2731986 (hereinafter "FR '986"). As discussed above, Misdom and Hartmann failed to teach or in any way make obvious the claimed partial ovoid portions extending from planar end faces. Applicant respectfully submits that FR '986 fails to teach or in any way make obvious the claimed ovoid portions. Therefore, Applicant respectfully submits that claims 10-15 are not obvious in view of the cited prior art.

In Part 10 of the Office Action, claims 25 and 26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Misdom and Hartmann further in

view of FR 2133279 (hereinafter "FR '279"). Applicant respectfully submits that FR '279 fails to teach or in any way make obvious the claimed partial ovoid portions extending from planar end faces and therefore, Misdorn and Hartmann further in view of FR '279 fail to make obvious the claimed invention.


Finally, in Part 11 of the Office Action, claims 27 and 28 were rejected under 35 U.S.C. §103(a) as being obvious from Misdorn and Hartmann further in view of U.S. Patent No. 3,471,078 (hereinafter "Seest"). Applicant respectfully submits that Seest fails to disclose the claimed ovoid portions extending from a planar end face and, therefore, Misdorn and Hartmann further in view of Seest fail to make the claimed invention obvious.

In view of the foregoing, Applicant respectfully submits that the present application is in condition for allowance.

Respectfully submitted,

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